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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/631,175	07/30/2003	Jerry Bromenshenk	UMT-102XC1	1442

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EXAMINER

SWIATEK, ROBERT P

ART UNIT	PAPER NUMBER
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3643

DATE MAILED: 10/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/631,175

Applicant(s)

BROMENSHENK ET AL.

Examiner

Robert P. Swiatek

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 July 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 and 11-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 16-20 is/are allowed.
- 6) ☒ Claim(s) 1-9 and 11 is/are rejected.
- 7) ☒ Claim(s) 12-15 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Burnett et al. (US 6,067,030). The patent to Burnett et al. discloses a system employing sensors that supply network infrastructure information to a control center, which uses the information thus gained to compute operational characteristics of back-up power reserves for central offices during crisis periods. Specifically, the system includes eight input sensors—considered to be transducers—that provide periodic or continuous output signals to a computer 50. Although not stated *per se* in Burnett et al., the management computer 50 is considered to include at least one microprocessor, inasmuch as such components are vital to all modern computing machines. The suite of sensors 34, 36, 38, 40, 42, 44, 46, 48 of Burnett et al. monitors *inter alia* temperature (see column 4, lines 57, 58, of Burnett et al.) and employs landline or wireless transmission (column 3, lines 62-67). Applicants' preamble to claim 1 has not been given weight inasmuch as the Burnett et al. system is deemed to be capable of monitoring bee colonies in a hive; additionally, the sensor output signals of Burnett et al. not only "are capable of controlling remote devices," as set forth in instant claim 1, but *do* trigger, for example, an alarm in the event

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of a power interruption (note column 4, lines 44, 45, and column 6, line 60, of Burnett et al.). Additionally, applicants' remark to the effect that the system of their instant invention actuates remote devices in addition to collecting data is more limited than claim 1, which only functionally recites the remote control aspect.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Burnett et al. in view of Bowden (US 2003/0167124 A1). The Burnett et al. patent does not specify the type of microprocessor used in the infrastructure computer 50. However, it would have been obvious to one skilled in the art to employ the RABBIT™ 2000 microprocessor of Bowden (considered to encompass the various components recited in claim 11) within the Burnett et al. system, in order to facilitate analysis of multiple, incoming streams of data—implicit in the transducer outputs of Burnett et al. See page 4, paragraphs 0071, 0072, of Bowden.

Claims 12-15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Applicants' arguments filed 26 July 2004 have been fully considered but they are not persuasive. Claims 1-9, 11 are not believed allowable for the reasons set forth above.

THIS ACTION IS MADE FINAL. Applicants are reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

The patent to Spangler et al. (US 5,015,212) has been cited to provide an additional example of a bee colony assessment device.

Summary: Claims 1-9, 11 have been rejected; claim 10 has been canceled; claims 12-15 have been rejected; claims 16-20 have been allowed.

RPS: 0703/308-2700
1 October 2004

Robert P. Swiatek

ROBERT P. SWIATEK
PRIMARY EXAMINER
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